

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 04-1906

THERESE CISHUGI,

Petitioner,

versus

ALBERTO R. GONZALES, Attorney General,

Respondent.

On Petition for Review of an Order of the Board of Immigration Appeals. (A79-235-604)

Submitted: March 16, 2005

Decided: April 28, 2005

Before LUTTIG, WILLIAMS, and SHEDD, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Courtney E. Smothers, Christopher J. Flack, ARNOLD & PORTER, L.L.P., Washington, D.C., for Petitioner. Peter D. Keisler, Assistant Attorney General, Michael P. Lindemann, Assistant Director, William C. Peachey, Office of Immigration Litigation, UNITED STATES DEPARTMENT OF JUSTICE, Washington, D.C., for Respondent.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Therese Cishugi, a native and citizen of Congo, petitions for review of an order of the Board of Immigration Appeals affirming the immigration judge's order denying her applications for asylum, withholding of removal, and protection under the Convention Against Torture.

In her petition for review, Cishugi challenges the immigration judge's determination that she failed to establish her eligibility for asylum. To obtain reversal of a determination denying eligibility for relief, an alien "must show that the evidence he presented was so compelling that no reasonable factfinder could fail to find the requisite fear of persecution." INS v. Elias-Zacarias, 502 U.S. 478, 483-84 (1992). We have reviewed the evidence of record and conclude that Cishugi fails to show that the evidence compels a contrary result. Accordingly, we cannot grant the relief that she seeks.

Additionally, we uphold the immigration judge's denial of Cishugi's request for withholding of removal. "Because the burden of proof for withholding of removal is higher than for asylum--even though the facts that must be proved are the same--an applicant who is ineligible for asylum is necessarily ineligible for withholding of removal under [8 U.S.C.] § 1231(b)(3)." Camara v. Ashcroft, 378 F.3d 361, 367 (4th Cir. 2004). Because Cishugi fails to show that

she is eligible for asylum, she cannot meet the higher standard for withholding of removal.

We also find that Cishugi fails to meet the standard for relief under the Convention Against Torture. To obtain such relief, an applicant must establish that "it is more likely than not that he or she would be tortured if removed to the proposed country of removal." 8 C.F.R. § 1208.16(c)(2) (2004). We find that Cishugi fails to make the requisite showing.

Accordingly, we deny the petition for review. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED